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Before the
Federal Communications Commission
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)
)
Implementation of Infrastructure) CC Docket No. 96-237
Sharing Provisions in the)
Telecommunications Act of 1996)
)

COMMENTS OF
ALLTEL TELEPHONE SERVICES CORPORATION

ALLTEL Telephone Services Corporation, on behalf of its affiliated local exchange companies (hereinafter "ALLTEL")¹, respectfully submits its comments in the above-captioned matter.²

¹ The ALLTEL Companies are "rural telephone companies" as defined in Section 153(37) of the Communications Act, as amended, and are wholly owned subsidiaries of ALLTEL Corporation, a holding company which, through various other subsidiaries, provides wireless services, information services and telephone supplies. The ALLTEL Companies are located in fourteen states and serve predominantly rural and or high/cost areas subject to universal service support.

² See, Notice of Proposed Rule Making in the Matter of Implementation of Infrastructure Sharing Provisions in the Telecommunications Act of 1996, CC Docket No. 96-237, FCC 96-456 (Released November 22, 1996) (the "NPRM"). The NPRM set December 20, 1996 as the date for the filing of comments in this matter.

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As an initial matter, the ALLTEL Companies question the Commission's belief that the infrastructure sharing provisions should be construed to promote the dual goals of universal service and competition (NPRM at para.6). Rather, the ALLTEL Companies believe that Section 259 should be construed as a provision narrowly designed to enable small and rural local exchange carriers to provide services and features comparable to those offered by the largest LECs without making capital expenditures which, given their smaller territories and populations, would ultimately overburden both the qualifying LEC and its subscribers. Simply put, infrastructure sharing is far less about promoting competition in small and rural markets (which are generally less attractive to competitors) as it is about elevating the service offerings available in those markets beyond that which the qualifying carrier's economies of scale and scope or finances would otherwise permit.

In order to avoid case by case determinations as to whether particular carriers qualify for infrastructure sharing under Section 259(d), the ALLTEL Companies suggest that the Commission adopt a presumption that any carrier meeting the definition of rural telephone company under Section 153(37) of the Communications Act, as amended is a "qualifying carrier." Other LECs may be found to be "qualifying carriers" based upon a demonstration that they lack economies of scale and scope.

But if the infrastructure sharing concept is to convey economic efficiencies to small and rural LECs as Congress intended, the economies of scale and scope of the providing carrier must exceed those of the qualifying carrier by a substantial degree. Indeed, the Commission correctly notes, at para. 37 of the NPRM, that the economies of scale and scope are relative, and not absolute, determinations; a small LEC which may be a

“qualifying carrier” vis-a-vis a vastly larger LEC could nevertheless be considered a providing carrier by another small or rural carrier. Rather than simply compare the relative costs of deploying infrastructure between providing and qualifying carriers (NPRM at para. 37), the ALLTEL Companies suggest that rural telephone companies (as defined under the Act) should not be subject to an FCC requirement to share infrastructure. As an alternative, the Commission could adopt an approach under which a LEC would be required to serve as a providing carrier only where its economies of scale and scope exceeded those of the qualifying carrier by a specified degree. Smaller carriers and rate payers should not be burdened with infrastructure sharing requests from neighboring LECs able, but unwilling, to deploy their own technology.

In the view of the ALLTEL Companies, Sections 251 and 259 of the Telecommunications Act of 1996 (the “1996 Act”) are distinct, yet complementary. Section 259 promotes the immediate provision of improved services to the communications “have-nots” through promoting LEC to LEC cooperation outside the scope of traditional common carrier regulation.³ Section 251, on the other hand, is designed to govern the relationship among carriers in competitive situations. The ALLTEL Companies believe that all Section 259 agreements should sunset at such time as either the qualifying LEC’s service territory becomes subject to competition or where the qualifying LEC uses Section 259 facilities to compete outside its service territory with the

³ Although qualifying LECs seeking infrastructure sharing appear to constitute a favored class of carrier (otherwise, they would be forced to seek unbundled network elements subject to Section 251), the ALLTEL Companies note that the Commission’s concern over the potential for discriminatory Section 259 agreements (NPRM at para. 22) should be tempered by the 1996 Act’s legislative history which stresses that infrastructure sharing agreements are not exempt from application of the antitrust statutes. See, Joint Explanatory Statement of the Committee of Conference on S.652, House Conference Report No. 104-458, 104th Cong., 2d Sess. at 137 (1996).

providing LEC. Further, where competition in small and rural markets emerges, a level playing field must immediately be established by requiring both the qualifying LEC and/or its competitor to obtain network elements pursuant to Section 251 in lieu of Section 259.

The ALLTEL Companies also believe that the Commission, should, either by specific example or through general guidelines, indicate the types of actions which are economically unreasonable under Section 259(b)(1) and therefore not required of providing LECs. For example, no providing carrier should be required to develop, purchase or install network infrastructure solely on the basis of a request from a qualifying carrier to share infrastructure -- a qualifying carrier must take the providing carrier's network the way it finds it. Providing carriers should not be required to share infrastructure at below-cost rates. Further, the providing LEC should not be required to provide infrastructure under Section 259 where the qualifying LEC either offers, or may be required to offer, those services obtained under an infrastructure sharing agreement for resale. Providing carriers should be afforded the opportunity at any point after a request for infrastructure sharing has been received to demonstrate that the qualifying carrier's demands, or that any agreement, create an unreasonable economic burden on the providing carrier or that the interest of rate payers would be adversely affected by a continuation of the agreement.

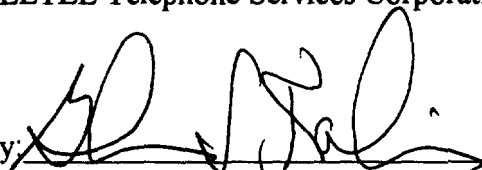
In conclusion, the ALLTEL Companies believe that infrastructure sharing is an important step in ensuring that rural subscribers are provided with improved service in the most economically efficient manner possible. The Commission, however, must ensure that

any infrastructure sharing provisions adopted cannot be gamed to alter marketplace competition or defer carrier investment in improved local exchange service.

Respectfully submitted,

ALLTEL Telephone Services Corporation

By:

A handwritten signature in black ink, appearing to read "Glenn S. Rabin", written over a horizontal line.

Glenn S. Rabin

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